

# PETITION FOR ZONING VARIANCE 84-86-A

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1.2.0.2.3.3. (208-3) to permit a sideyard setback of 2 ft. instead of the required 10ft. and a sum of 19ft. for both sideyards instead of the required 25ft. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

- 1) To protect expensive automobiles (Mercedes Benz etc.)
- 2) For additional storage of personal and dental goods.

3) To enhance value and appearance of property. Property is to be posted and advertised as prescribed by Zoning Regulations

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Signature of Petitioner:

(Type or Print Name)

Signature

Address

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Dr. George C. Abraham

Name

Address

City and State

Attorney's Telephone No.:

633 Clifton Forge Circle 798-2986

Address

City and State

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 2nd day

of August 1983, that the subject matter of this petition be advertised, as

required by the Zoning Law of Baltimore County, in two newspapers of general circulation through-

out Baltimore County, that property be posted, and that the public hearing be had before the Zoning

Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore

County, on the 5th day of October, 1983, at 10:00 o'clock

A.M.

(over)

Cal Jahn

Zoning Commissioner of Baltimore County.

H-NE Key Sheet  
2 SW 27 Pos. Sheet  
SW 1 G Topo  
94 Tax Map

September 2, 1983

Mr. Arnold Jablon  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Re: Item #27 (1983-1984)  
Property Owner: Dr. George C. & Lizziana Abraham  
S/MS Clifton Forge Circle 473.11' N/W from centerline Stuart Mill Rd.  
Acres: 79.41/100.22 X 115/115  
District: 1st

Dear Mr. Jablon:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Baltimore County highway and utility improvements exist per Public Works Agreement #16707 and are not directly involved.

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings down-stream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

Prior to removal of any existing curb for entrances, the Petitioner shall obtain a permit from the Bureau of Public Services, Attention: Mr. C. E. Brown, 494-3321.

Driveways shall be constructed in accordance with Baltimore County Standards (Detail R-15A), with depressed curb and 7-inch concrete aprons within the right-of-way.

Very truly yours,

ROBERT A. WATSON, P.E., Chief  
Bureau of Public Services

RAW:EW:PRS

RE: PETITION FOR VARIANCES : BEFORE THE ZONING COMMISSIONER  
S/MS Clifton Forge Circle,  
473.11' NW of the Centerline of  
Stuart Mills Place, 1st District : OF BALTIMORE COUNTY

GEORGE CHEMPIL ABRAHAM, : Case No. 84-86-A  
et ux, Petitioners

## ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefor, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman, John W. Hession, III  
Deputy People's Counsel People's Counsel for Baltimore County  
Rm. 223, Court House  
Towson, Maryland 21204  
494-2183

I HEREBY CERTIFY that on this 12th day of September, 1983, a copy of the foregoing Order was mailed to Dr. and Mrs. George C. Abraham, 6433 Clifton Forge Circle, Baltimore, MD 21228, Petitioners.

John W. Hession, III

BALTIMORE COUNTY  
DEPARTMENT OF TRAFFIC ENGINEERING  
TOWSON, MARYLAND 21204  
494-3550

STEPHEN E. COLLINS  
DIRECTOR

September 1, 1983

Mr. William Hammond  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Item No. 26, 27, 28, 29, 31, 32, 33, 34. ZAC - Meeting of August 2, 1983  
Property Owner:  
Location:  
Existing Zoning:  
Proposed Zoning:

Acres:  
District:

Dear Mr. Hammond:

The Department of Traffic Engineering has no comments for item numbers 26, 27, 28, 29, 31, 32, 33, and 34.

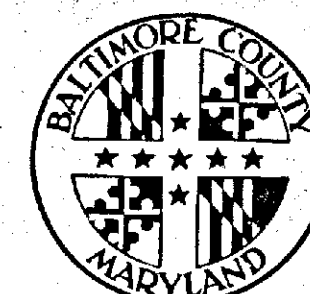
MSF/ccm

Michael S. Flanagan  
Traffic Engineering Assoc. II

## BALTIMORE COUNTY

## ZONING PLANS

## ADVISORY COMMITTEE



## PETITION AND SITE PLAN

## EVALUATION COMMENTS

## BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 22, 1983

COUNTY OFFICE BLDG.  
111 W. Chesapeake Ave.  
Towson, Maryland 21204

000

Nicholas B. Connodari  
Chairman

MEMBERS

Bureau of Engineering

Department of Traffic Engineering

State Roads Commission

Bureau of Fire Prevention

Health Department

County Planning

Building Department

Board of Education

Zoning Administration

Industrial Development

Dr. & Mrs. George Chempil Abraham  
6433 Clifton Forge Circle  
Baltimore, Maryland 21228

RE: Item No. 27 - Case NO. 84-86-A  
Petitioner - Dr. Geo. C. Abraham, et ux  
Variance Petition

Dear Mr. & Mrs. Abraham:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

NICHOLAS B. CONNODARI  
Chairman  
Zoning Plans Advisory Committee

NBC:bsc

Enclosures

## BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Zoning Commissioner  
TO: Office of Planning and Zoning Date: August 31, 1983  
FROM: Ian J. Forrest  
SUBJECT: Zoning Variance Items

The Baltimore County Department of Health has reviewed the following zoning items and does not anticipate any health hazards at this time regarding these items.

- Item # 27 - Dr. George C. and Lizziana Abraham
- Item # 31 - Buclay Realty
- Item # 34 - Reisterstown Shopping Center Limited Partnership

Ian J. Forrest, Director  
BUREAU OF ENVIRONMENTAL SERVICES

LJP/eth

BALTIMORE COUNTY  
DEPARTMENT OF PERMITS & LICENSES  
TOWSON, MARYLAND 21204  
494-3500

TED ZALESKI JR.  
DIRECTOR

Mr. William E. Hammond, Zoning Commissioner  
Office of Planning and Zoning  
County Office Building  
Towson, Maryland 21204

Dear Mr. Hammond

Comments on Item # 27 Zoning Advisory Committee Meeting

are as follows:

Property Owner: Dr. George C. & Lizziana Abraham  
Location: S/MS Clifton Forge Circle 473.11' N/W from centerline Stuart Mill Road  
Existing Zoning: D-1, 3-5  
Proposed Zoning: Variance to permit a side yard setback of 2' in lieu of the required 10' and to permit a sum of 19' from both side yards 79.41/100.22 X 115/115 in lieu of the required 25'.  
Acres: 1st

The items checked below are applicable:

- X A. All structure shall conform to the Baltimore County Building Code 1981/ Council Bill 1-82 State of Maryland Code for the Encumbrances and Aged; and other applicable Codes.
- X B. A building/and other miscellaneous permits shall be required before beginning construction.
- C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required.
- D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- X E. An exterior wall erected within 6'0" of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'0" of lot lines. A fire wall is required if construction is on the lot line. See Table 101, line 2, Section 1007 and Table 1007.
- F. Requested variance conflicts with the Baltimore County Building Code, Section/s
- G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed con- comply with the height/area requirements of Table 505 and the required construction classification of Table 101.
- X I. Comments: If airport posts are within 3'0" of property line and are of wood, they shall be fire retardant treated, or metal, concrete, masonry or other non-combustible.

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit.

If desired, additional information may be obtained by visiting Room #122 (Time Survey) at 111 West Chesapeake Ave., 21204

Very truly yours,

Charles E. Burnham, Chief  
Plans Section

CEB:rrj

FURN 01-82



Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would/would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, that the herein Petition for Variance(s) to permit

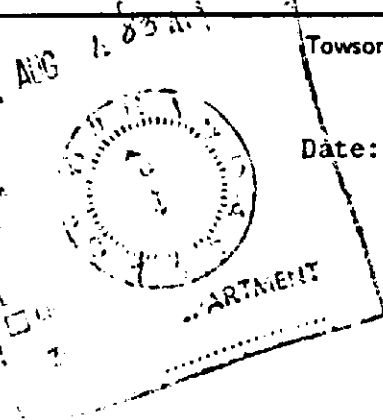
## BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent

Towson, Maryland - 21204

Date: August 1, 1983

Mr. William E. Hammond  
Zoning Commissioner  
Baltimore County Office Building  
1111 West Chesapeake Avenue  
Towson, Maryland 21204



Z.A.C. Meeting of: August 2, 1983

RE: Item No: 26, 27, 28, 29, 30, 31, 32, 33  
Property Owner:  
Location:  
Present Zoning:  
Proposed Zoning:

District:  
No. Acres:

Dear Mr. Hammond:

The above item numbers have no bearing on student population. As far as Item 34 is concerned, we wish to draw your attention to the fact that this property is in close proximity to the Franklin Senior High School and could be an inducement to the students.

Very truly yours,  
*Wm. Nick Petrovich*  
Wm. Nick Petrovich, Assistant  
Department of Planning

MNP/bp

IN RE: PETITION ZONING VARIANCES  
SW/S of Clifton Forge Circle,  
473.11' NW of the centerline  
of Stuart Mills Place - 1st  
Election District  
George Chempil Abraham, et ux,  
Petitioners  
BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 84-86-A

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request variances to permit a side yard setback of two feet instead of the required ten feet and to permit a sum of 19 feet for both side yards instead of the required 25 feet. The purpose of their request is to erect a garage to be attached to their home, as more fully described on Petitioners' Exhibit 1.

Petitioner George Chempil Abraham appeared and testified. Testifying on behalf of the Petitioners was Arthur Horsey, the Contractor who would build the garage. Protestants appeared and were represented by Counsel.

Testimony indicated that the property owned by the Petitioners is zoned D.R.3.5. The Petitioners wish to build a garage attached to their home and need variances to do so. The garage, according to the Petitioner and his witness, can only be built on the side of the house indicated on Petitioners Exhibit 1 due to the topography of the property, which slopes from front to back, the lack of room available on the opposite side. The Petitioners wish to build a two-car garage, 23 feet by 24 feet. The Petitioner contends that due to the topography, the slope, it would be impractical to build the garage to the rear of the house as it would require much landfill to be used, require about 300 feet of landfill to be removed in order to taper the land to the street, require the erection of a retaining wall, and require the removal of many trees. Mr. Horsey testified that there is a difference in elevation of

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DATE *Oct 28 1983*

BY *John P. Lacey*

seven feet between the front and back. In addition, a patio presently exists in the rear yard. From the house, six steps exist for people to use when exiting the house to the rear yard. This would make it difficult to attach a garage to the house in the rear due to the drop from the house to the yard. The Petitioner also admits that it would be more convenient to have the garage to the side as proposed; there already exists a driveway and parking pad on that side.

The Protestants object and argue that the construction of the garage on the side violates the restrictive covenants that run with the land by deed. The community association, composed of approximately 550 of the 800 families living in the development, and represented by the Protestants, argue that any variance granted would seriously effect the aesthetics of the community, something that the covenants seek to protect. If granted, they argue that the variance will lead to a proliferation of garages-encroaching closer and closer to neighbors' property lines and destroying the beauty of the community. The Protestants point out that mere convenience is not enough to substantiate the need for a variance and that, to the contrary, the variance, if granted, would be detrimental to the community.

The Petitioners seek relief from Section 1802.3B. (208.3), pursuant to Section 307, of the Baltimore County Zoning Regulations (BCZR).

Based on the factors to be considered when judging the merits of a variance request, it would seem here that the concerns raised by the Protestants, and all important, must be viewed in light of the immediate vicinity and uses contained therein, the nature of the zone in which the property lies, and whether if applied, the restriction would create a practical difficulty. The Petitioner testified that his immediate neighbors, including the neighbor closest to the proposed garage, do not object. Further, there are garages already in existence in the neighborhood, although none have required variances to the knowledge of either the Petitioner or the Protestants. Certainly, a garage is not a novelty

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DATE *Oct 28 1983*

BY *John P. Lacey*

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to the development. The Petitioner and the Contractor testified that the proposed garage would reflect the development design of the home and possess the same siding on its front as the home.

There is a strong presumption of the correctness of original zones and of comprehensive zoning. Howard County v. Dorsey, 438 A.2d 1339 (1982). There is a presumption of validity that must be accepted. Johnson & Wales College v. DiPietro, 448 A.2d 1271 (R.I., 1982). In interpreting the zoning regulations, the restrictive language contained must be strictly construed so as to allow the landowner the least restrictive use of his property. Lake Adventure, Inc. v. Zoning Hearing Bd. of Dingham Township, 440 A.2d 1284 (Pa. Cmwlth., 1982). When the language of a zoning regulation is clear and certain, there is nothing left for interpretation and the ordinance must be interpreted literally. Mongony v. Bevilacqua, 432 A.2d 661 (R.I., 1981).

The Court of Special Appeals has held that a variance relating to "area" restrictions, as distinguished from restrictions on the use of the property, must be judged under the "practical difficulties" test. Anderson v. Bd. of Appeals of Town of Chesapeake Beach, 22 Md. App. 28 (1974).

An area variance may be granted where strict application of the zoning regulations to the Petitioner and his property would cause practical difficulty. Anderson v. Soley, 270 Md. 209 (1973). To prove practical difficulty for an area variance, the petitioner must meet the following:

- whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- whether the grant would do substantial injustice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, supra.

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DATE *Oct 28 1983*

BY *John P. Lacey*

It is clear from the testimony that if the variances were to be granted, such use as proposed would not be contrary to the spirit of the regulations and would not result in substantial detriment to the public good.

The remaining issue to be decided, whether restrictive covenants as contained in the deeds passing title to property in the development in which the Petitioners reside are controlling over zoning considerations, must be decided against the Protestants. Perry v. County Bd. of Appeals of Montgomery County, 127 A.2d 507 (1956); St. Luke's House, Inc. v. DiGiuliano, 336 A.2d 781 (1975).

Such private restrictions controlled by contract and real property law are entirely independent of zoning and have no proper place in proceedings of this character, notwithstanding if in a proper proceeding the restrictions contended for are shown to be binding upon the properties mentioned, zoning cannot nullify them.

Perry, supra, at 509.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty would result if the instant variances were not to be granted. It has been established that the requirement the Petitioners seek relief from here would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition, and for the reasons given above, the variances requested should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this \_\_\_\_\_ day of October, 1983, that the Petition for Variances to permit a side yard setback of two feet instead of the required ten feet and to permit a sum of 19 feet for both side yards instead of the required 25 feet be and is hereby GRANTED, from and after the date of this Order, subject to the following restriction:

- 4 -

- The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that their proceeding at this time is at their own risk until such time as the appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

*Bill Jabol*  
Zoning Commissioner of  
Baltimore County

ORDER RECEIVED FOR FILING

DATE *Oct 28 1983*

BY *John P. Lacey*

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### SILBIOER & ANELLO

ATTORNEYS AT LAW

ARNOLD R. SILBIOER  
SALVATORE E. ANELLO III

HUGHES BOEHRER GREENBERG

ADMITTED TO PRACTICE IN  
MARYLAND AND  
DISTRICT OF COLUMBIA

October 11, 1983

Arnold Jablon  
Zoning Commissioner for Baltimore County  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Re: Petition for Variance  
6433 Clifton Forge Circle  
George Chempil Abraham, et ux. vs.  
Woodbridge Valley Improvement  
and Civic Association Inc.  
84-86-A

Dear Mr. Commissioner:

In accordance with your instructions at the time of the hearing on October 5, 1983 we have researched the relevant case law regarding the effect of restrictive covenants in deeds as contractual obligations running with the land in reference to the decision making power of this body to grant variances and exceptions which may conflict with such restrictions, and I must regretfully report to you that the law within the state is well settled on this question and the rule is that you have authority to make your determination without reference to restrictive covenants which may otherwise be enforceable by individual homeowners or associations against one another. The Court of Appeals decided this question in the case of Perry et al v. County Board of Appeals for Montgomery County et al, 211 Md. 294, 127 A. 2d 507, (1956), and this rule has been affirmed by the Court of Appeals as recently as 1975 in the case of St. Luke's House Inc. v. DiGiuliano, 336 A. 2d 781. In the Perry case, supra, the Court of Appeals affirmed the action of the Board of Appeals for Montgomery County in granting a special exception for the operation of a care home within a residential property zone, and the court went on to hold that the Zoning Board had properly made its determination under the zoning ordinance without reference to restrictive covenants binding the land. The Court of Appeals rejected the contention that the Zoning Board had no authority to grant a special exception which would be violative of restrictive covenants running with the land. The Court of Appeals in Perry supra indicated that the zoning ordinance while not overriding or defeating whatever private rights exist



Arnold Jablon  
Zoning Commissioner for Baltimore County  
October 11, 1983  
Page 2

are not controlled in its workings by such private rights. The enforcement of restrictive covenants is a matter for the exercise of the discretion of an equity court in the light of attendant circumstances. Many times the covenant relied on may not have been originally effective or for many reasons may have ceased to be effective at the time relief was sought. Such private restrictions controlled by contract and real estate law are entirely independent of zoning and have no proper place in the proceedings of this character, notwithstanding if in a proper proceeding the restrictions contended for are shown to be binding upon the properties mentioned, zoning cannot nullify them. In any event the action of the Zoning Board does not have any effect on an equity court's decision in a proceeding in equity to enforce such restrictive covenants running with the land.

I have Shepardized Perry supra, and found it to remain good law within the State of Maryland, and controlling in the instant case. Notwithstanding the apparent irrelevance of restricted covenants to your deliberations, on behalf of the Woodbridge Valley Improvement & Civic Association Inc., we once again point the Commissioner to those other traditional considerations which militate against the granting of a variance in the instant case. In order for a variance in the subject case to be granted, the burden of proof was upon the applicant to demonstrate practical difficulties or unnecessary hardship. Merely the need for the variance must be substantial and urgent and not merely for the convenience of the applicant or his builder. We would urge upon the Commissioner that while the applicant did allege some inconvenience, he did not meet the burden of proof in showing the need is substantial and urgent, nor did he demonstrate those practical difficulties or unnecessary hardships which would warrant the grant of a variance. Furthermore, whatever the inconvenience to the owner of the building might be, in reference to the set back and side yard restrictions in the subject case, these alleged difficulties and hardships are far out weighed by the interests of the adjoining homeowners in the community who are taking a position before this Board in opposition on the grounds that such construction within two (2) feet of a property line on the side yard, is detrimental to their community, and if allowed in other cases, would destroy the aesthetic beauty of their community. Moreover, the applicant's allegations of financial hardship are not sufficient, see Morino v. the City of Baltimore, 13, A. 2d 198, 215 Md. 206 (1958). Nor is the

Arnold Jablon  
Zoning Commissioner for Baltimore County  
October 11, 1983  
Page 3

applicant's allegation that a garage will make his property more valuable sufficient grounds for the granting of an exception or a granting of a variance, Morino supra. Moreover, the applicant has failed to show that the practical difficulties and unnecessary hardships upon him are peculiar to his situation and are not necessary to carry out the spirit of the ordinance, since the association has introduced extensive evidence and photos to the Commissioner which demonstrate that the garage can be built in a conforming manner, and has been by other homeowners similarly situated to the applicant. The difficulties of Dr. Abraham as alleged amount to no more than an allegation of minimal financial hardship, and this must be weighed against the interest of the entire community in preserving an uncongested open environment. We should further point out to the Commissioner that neither the doctor nor his builder brought with them any photographic evidence which would have demonstrated the alleged topographical inclination which would make the construction of the two car garage so much more difficult and expensive in complying with the fifty (50) foot setback from the front of the property, and this omission in the provision of the applicant's evidence was most revealing.

In any event, we would like to express our appreciation to the Commissioner in granting us this opportunity to research the relevant law relative to the effect of restrictive covenants upon the power and authority of the zoning Commissioner to grant variances, although we wish the case law had been more favorable. Nonetheless we once again ask the Commissioner to reject the applicant's request for this variance as not having met the test of demonstrating sufficient practical difficulties or unnecessary hardships peculiar to the situation of the applicant and not necessary to carry out the spirit of the ordinance which are a byproduct of the fact that there exists amounts to a substantial and unnecessary injustice to the applicant.

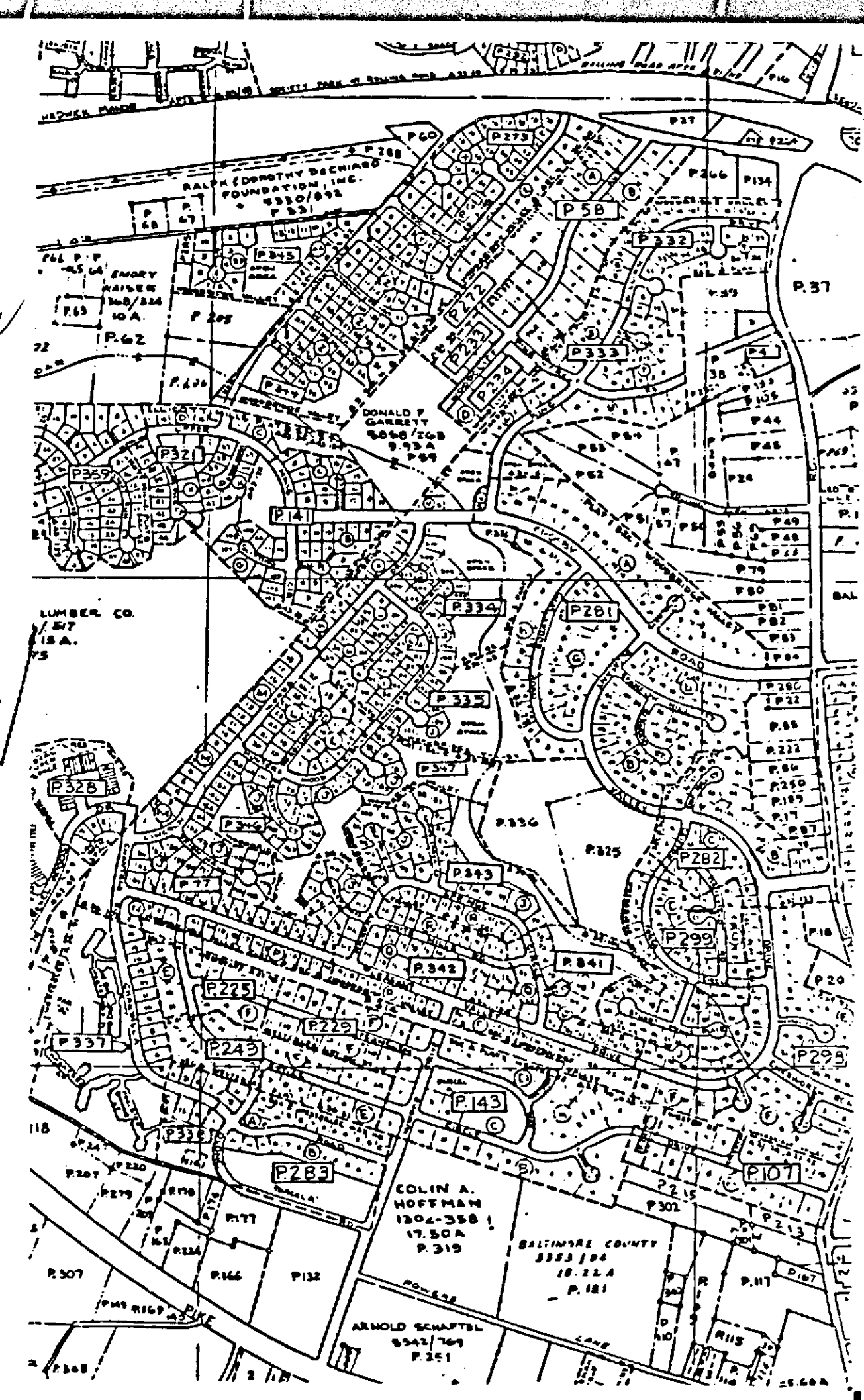
Your cooperation in regard to this matter has been greatly appreciated.

Very truly yours,  
Salvatore E. Anello III

SEA:dk

cc: George C. Abraham  
Woodbridge Valley Improvement  
& Civic Association Inc.  
c/o Richard Burner

PROTESTANT'S  
EXHIBIT



OT6  
LIES 183 PAGE 160

THIS DECLARATION, made this 30th day of April 1971, by MONUMENTAL PROPERTIES, INC., a body corporate of the State of Maryland.

WHEREAS, MONUMENTAL PROPERTIES, INC. is the owner of all the lots of ground hereinafter described, as follows:

Lots 13 to 21, Block C, both inclusive; Lots 4 to 21, Block D, both inclusive; Lots 19 to 23, Block F, both inclusive; Lots 3 to 42 and Lots 51 to 57, Block J, both inclusive; all as shown on Plat entitled "Section One, Flat Four, Woodbridge Valley", which Plat is recorded among the Land Records of Baltimore County, State of Maryland, in Plat Book O.T.C. No. 33, folio 112.

AND WHEREAS, MONUMENTAL PROPERTIES, INC. for the purpose of creating and maintaining a general scheme of development, desires that the hereinafter mentioned lots of ground shall be subject to the covenants and restrictions hereinafter set forth, which said covenants and restrictions shall be in addition to any restrictions made applicable to the aforesaid lots and/or some of them by virtue of the Agreement dated January 5th, 1967 by and between this company and others as parties of the first part and North Rolling Road Improvement Association, et al, as party of the second part, which said Agreement is recorded among the Land Records of Baltimore County, Maryland, in Liber O.T.C. No. 4712, folio 47.

NOW, THEREFORE, THIS DECLARATION WITNESSETH: That MONUMENTAL PROPERTIES, INC., for itself, its successors and assigns, in consideration of the mutual benefits to be derived by it and them, does hereby impose on the land hereinabove described the following restrictions, covenants, conditions agreements and reservations:

00210000 250000 2 12-4-AW  
00210000 250000 2 12-4-AW

LIES 183 PAGE 161

(1) That the said lot hereinafter mentioned and any building or structure now or hereafter erected thereon shall be occupied and used for residential purposes only and no building shall be erected, altered, placed or permitted to remain on any lot other than one detached dwelling not to exceed two and one-half stories in height, except and provided, however, as follows:

(a) Nothing herein contained shall be construed as preventing the use of any garage or garages, erected in accordance with the provisions hereinafter contained, for the usual vehicle housing purposes of private non-commercial garages or garages.

(b) Real estate sales, management and/or construction offices may, with the consent and approval of Monumental Properties, Inc. (hereinafter referred to as "Company"), be erected, maintained and operated on any part of said land and/or in any building or structure now or hereafter erected thereon provided such offices are solely used in connection with the development of said land or the construction of improvements on said land or the management, rental or sale of any part of said land, or of improvements now or hereafter erected thereon, but no part of said land, nor any part of any improvements now or hereafter erected thereon, shall be used for any of the aforesaid purposes set forth in this sub-paragraph (b) without the written consent and approval of Company being first had and obtained.

(c) Any part of said land and any improvements now or hereafter erected thereon shall, with the written consent and approval of Company, be used as a physician's office or dentist's office, without hospital facilities, for the treatment of patients, and for the practice of such professions, provided that the physician or dentist using such office resides in the same dwelling house in which such office is located, but no part of said land or any improvements now or hereafter erected thereon shall be used for any of the aforesaid purposes set forth in this sub-paragraph (c) without the written consent and approval of Company being first had and obtained.

(d) Any part of said land and any improvements now or hereafter erected thereon may, with the written consent and approval of Company, be used for a church, school, library, playground, non-profit community swimming pool, non-profit community tennis court, park, automobile parking area for non-commercial vehicles, place of public assembly for community meetings, and for any or all of the usual purposes and functions incidental to or connected with any or all of the aforesaid, but no part of said land or any improvements now or hereafter erected thereon shall be used for any of the aforesaid purposes set forth in this sub-paragraph (d) without the written consent and approval of Company being first had and obtained.

(2) No building, fence, wall, sign, tank or structure of any kind shall be commenced, erected or maintained on said land, nor shall any addition to or change or alteration therein be made, until the plans and specifications in duplicate showing the nature, kind, shape, height, materials, locations and approximate cost of such structure shall have been submitted to and approved in writing by Company. Company shall have the right to refuse to approve any such plans or specifications which are not suitable or desirable in its opinion for aesthetic or other reasons, and in so passing upon such plans and specifications, it shall have the right to take into consideration the use and suitability of the proposed building, fence, wall, sign, tank or structure, changes, additions, alterations, and location thereof, and of the materials of which it is to be built, to the site upon which it is proposed to erect the same, the harmony with the surroundings and the effect of the building or other structure as planned on the outlook from adjacent or neighboring property. However, partition fences may be erected at the rear of the lot along the rear property line without first obtaining Company's permission. In addition to the foregoing provisions of this paragraph (2), in no event shall any fence or wall be erected, placed, altered or permitted to remain on any lot nearer to any street than the minimum setback line as provided in paragraph (1) hereof. Where two adjacent houses are different distances from the street, no fence or wall between these two lots shall be closer to the street than the front corner of the house most distant from the street. Fences where permitted shall not exceed 42 inches in height and shall not impede egress or drainage. The restrictions of this paragraph shall not apply to enclosures of open patios or garden courts and shall not apply to retaining walls required by topography, but any such enclosures or retaining walls must have written consent and approval of Company.

(3) No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building setback line shown on the plat aforesaid. In no event shall any building be located on any lot nearer than 30 feet

LIES 183 PAGE 162

to the front lot line, or nearer than 30 feet to any side street line. No building shall be located nearer than 10 feet to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located on a lot or more from the minimum building setback line. No dwelling shall be located on any interior lot nearer than 30 feet to the rear lot line. For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of a building. However, eaves, steps and open porches shall not be constructed to permit any portion of a building on a lot to encroach upon another lot. As encroachment into the aforesaid setbacks contained in this paragraph or of the setbacks shown on the aforesaid plat of any amendment to said plat or re-subdivision thereof.

(4) No dwelling shall be permitted on any lot the cost of construction of which is less than \$9,000.00 at the cost prevailing on the date these covenants are recorded. The ground floor area of the main structure exclusive of one story open porch and garage shall not be less than 1,000 square feet for a one-story house, nor less than 800 square feet for a dwelling of more than one story. For split level dwellings the ground cover area shall not be less than 800 square feet.

(5) No chickens, ducks, geese, or other type or kind of fowl, nor horses, ponies, goats, cows or livestock of any kind whatsoever may be kept, maintained, or bred in any lot or lots or in any dwelling or building erected thereon, nor shall any owner or occupant be permitted to breed for breeding or domestic animals such as cats and dogs, etc. or to keep any animal other than two such domestic animals on the premises.

(6) No nuisance shall be maintained, allowed or permitted on any part of said land and no use thereof shall be made or permitted which may be noxious or detrimental to health.

(7) No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

(8) No advertising or display signs of any character shall be placed or maintained on any part of the land nor on any building erected on said land, except with the express written consent of Company. This shall not prohibit the display of customary "For Rent" or "For Sale" signs, not larger than twenty-eight by twenty inches, on a dwelling house by the owner thereof, excepting that for the first year, following completion of the dwelling on the property, the owner or resident, in attempting to sell or lease the property, shall not display any signs advertising the property for sale or rent except with the express written consent of the Company.

(9) No outside radio tower or television antenna shall, in excess of four feet in height, be erected, installed or maintained on any part of said land or any improvements thereon, until the Company has first given its approval, in writing, to the type, height and location of the tower or antenna, proposed to be so erected, installed or maintained.

(10) No permanent type of exterior clothes dryer shall be erected, installed or maintained on any part of said land, or any improvements thereon; only the collapsible type clothes dryer shall be used.

(11) No metal awnings shall be installed or maintained over the front or side porches and windows of any building.

(12) The aforesaid covenants numbered (1) to (11) inclusive are to run with the land and shall be binding on all parties and all persons claiming under them until June 1st, 1993 and may be extended for a longer period in the manner hereinafter set forth. On and after June 1st, 1993 the powers and duties of Company with respect to said covenants shall cease. But said covenants may thereafter be enforced by the appointed representative or representatives if prior to said date and effective date, a written instrument shall have been executed by the then record owners of a majority of the lots in the subdivision and duly recorded, appointing a representative or representatives, who shall thereafter exercise the same powers previously exercised by Company. Any and all of the rights and powers (including discretionary powers and rights) herein reserved by or conferred upon the Company may be assigned or transferred by said Company to any one or more persons or entities, and the assignee or transferee may exercise any such assignment or transfer shall be evidenced by an appropriate instrument recorded among the Land Records for said lot.

LIES 183 PAGE 163

of Baltimore County and upon recordation thereof, the grantor or grantee of such rights and powers shall thereupon and thereafter have the right to exercise and enforce all of the rights and powers reserved by or conferred upon Company by this Declaration.

(13) Enforcement of the above restrictions shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

Assessments for installation and maintenance of utilities and drainage facilities are hereby reserved by Company as shown on the plat hereinbefore mentioned and over the rear five feet of each lot. An additional easement or easements, each one or both sides of the lot as the Company may determine upon for storm water sewers, Company permits to be built upon for their entire width. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The extent area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. No conveyance by Company of any of the aforesaid lots, or of any interest therein, shall be deemed to be, or construed as, a conveyance of the aforesaid easements, or of any of them, even though said conveyance purports to convey the lot or lots in fee simple, or by other language purports to convey Company's entire interest therein, but such effect shall only arise if the said conveyance expressly and specifically recites it to be the intention of Company to thereby convey or release said easements. Likewise, (releasing and reaffirming said lots or any of them, or of any interest in said lots, or any of them, by Company numbered (1) to (11) inclusive (and to any other applicable restrictions now or hereafter recorded) whether or not the conveyance shall so recite.

Invalidation of any one of the aforesaid restrictions numbered (1) through (13) of any of the aforesaid restrictions shall in no wise affect any of the other provisions which shall remain in full force and effect.

WITNESS the corporate seal of the said MONUMENTAL PROPERTIES, INC. and the signature of its President or Vice-President.

WITNESSES:  
MONUMENTAL PROPERTIES, INC.  
By: [Signature]  
STATE OF MARYLAND,  
TO WIT:

I HEREBY CERTIFY, that on this 30th day of April, 1971, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared Harry L. Whitehead, who acknowledged himself to be the Vice President of MONUMENTAL PROPERTIES, INC., and that he, as such Vice President, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing, in my presence, the name of said corporation by himself as Vice President.

WITNESS my hand and Notarial Seal.

By: [Signature]  
LAWSON C. BERRY, Notary Public  
My commission expires: June 1, 1976

Record for record MAY 4 1971 at 9:20  
Per Ovilla T. C. Small, Clerk  
Vail to: THE JURY EXAMINER COMPANY  
Jurat No. 12,000

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon  
Zoning Commissioner  
Norman E. Gerber, Director  
Office of Planning and Zoning

FROM: George Campbell Abraham  
et ux 84-56-4

SUBJECT: [Blank]

There are no comprehensive planning factors requiring comment on this petition.

NEG:JGH:cav

Norman E. Gerber  
Director of Planning and Zoning



## BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon  
Zoning Commissioner Date: September 21, 1983  
FROM: Norman E. Gerber, Director  
Office of Planning and Zoning  
SUBJECT: George Chempil Abraham  
et ux 84-86-A

There are no comprehensive planning factors requiring comment on this petition.

*Norman E. Gerber*  
Norman E. Gerber  
Director of Planning and Zoning

NEG:JGH:cav

## PETITION FOR VARIANCES

## 1st Election District

ZONING: Petition for Variances  
LOCATION: Southwest side of Clifton Forge Circle, 473.11 ft. Northwest of the centerline of Stuart Mills Place  
DATE & TIME: Wednesday, October 5, 1983 at 10:00 A.M.  
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing:

Petition for Variances to permit a side yard setback of 2 ft. instead of the required 10 ft. and a sum of 19 ft. for both side yards instead of the required 25 ft.

The Zoning Regulation to be excepted as follows:  
Section 1802.3.B (208.3) - side and sum of side yard setbacks in D.R. 3.5 (R-10) zone

All that parcel of land in the First District of Baltimore County

Being the property of George Chempil Abraham, et ux, as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF  
ARNOLD JABLON  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY

## Zoning Description

Beginning on the S.W. of Clifton Forge Circle 473.11 feet N.W. of the center line of Stuart Mills Place, being lot # 9, Block J Section 1, Plat 4 of Woodbridge Valley recorded in Plat Book C73 / 33 Folio 112, also known as 6133 Clifton Forge Circle.



BALTIMORE COUNTY  
OFFICE OF PLANNING & ZONING  
TOWSON, MARYLAND 21204  
494-3353

ARNOLD JABLON  
ZONING COMMISSIONER

September 26, 1983

Dr. & Mrs. George Chempil Abraham  
6433 Clifton Forge Circle  
Baltimore, Maryland 21228

Re: Petition for Variances  
SW/S of Clifton Forge Circle, 473.11'  
NW of the c/l of Stuart Mills Place  
Case No. 84-86-A

Dear Dr. & Mrs. Abraham:

This is to advise you that \$48.50 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

*Arnold Jablon*  
ARNOLD JABLON  
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No. 121559

DATE: 10/3/83 ACCOUNT: R-01-615-000

AMOUNT: \$48.50

RECEIVED BY: Dr. G. C. Abraham

FOR: Advertising & Posting Zoning Case #84-86-A

6 078\*\*\*\*\*485C4 803LF

VALIDATION OR SIGNATURE OF CASHIER

Office of  
**PATUXENT**  
Publishing Corp.  
10750 Line Patuxent Hwy.  
Columbia, MD 21044

September 1519 83

THIS IS TO CERTIFY, that the annexed advertisement of

## PETITION FOR VARIANCE

was inserted in the following:

☒ Catonsville Times  
☐ Arbutus Times

weekly newspapers published in Baltimore County, Maryland once a week for one successive weeks before the 17 day of September 1983, that is to say, the same was inserted in the issues of

September 15, 1983

PATUXENT PUBLISHING CORP.  
By *[Signature]*



BALTIMORE COUNTY  
OFFICE OF PLANNING & ZONING  
TOWSON, MARYLAND 21204  
494-3353

ARNOLD JABLON  
ZONING COMMISSIONER

October 28, 1983

Dr. & Mrs. George Chempil Abraham  
6433 Clifton Forge Circle  
Baltimore, Maryland 21228

IN RE: Petition for Variances  
SW/S of Clifton Forge Circle,  
473.11' NW of the centerline  
of Stuart Mills Place - 1st  
Election District  
George Chempil Abraham, et ux,  
Petitioners  
Case No. 84-86-A

Dear Dr. & Mrs. Abraham:

I have this date passed my Order in the above referenced matter in accordance with the attached.

Sincerely,

*Arnold Jablon*  
ARNOLD JABLON  
Zoning Commissioner

AJ/srl

Attachments

cc: Salvatore E. Anello, III, Esquire  
Silbiger-Anello Building  
1338 Sulphur Spring Road  
Baltimore, Maryland 21227

John W. Hession, III, Esquire  
People's Counsel

September 6, 1983

Dr. & Mrs. George Chempil Abraham  
6433 Clifton Forge Circle  
Baltimore, Maryland 21228

## NOTICE OF HEARING

Re: Petition for Variances  
SW/S Clifton Forge Circle, 473.11' NW of  
the c/l of Stuart Mills Place  
Case No. 84-86-A

TIME: 10:00 A.M.

DATE: Wednesday, October 5, 1983

PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

*Arnold Jablon*  
Zoning Commissioner  
of Baltimore County

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No. 117679

DATE: 10/3/83 ACCOUNT: 01-615-000

AMOUNT: 35.00

RECEIVED BY: Dr. G. C. Abraham

FOR: Filing for Case # 84-86-A  
Case # 274 6 078\*\*\*\*\*485C4 8132A

VALIDATION OR SIGNATURE OF CASHIER

Dr. & Mrs. George Chempil Abraham  
6433 Clifton Forge Circle  
Baltimore, Md. 21228

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Your petition has been received and accepted for filing this 2nd day of August 1983.

*Arnold Jablon*  
ARNOLD JABLON  
Zoning Commissioner

Petitioner Geo. Chempil Abraham, et ux  
Petitioner's Attorney

Nicholas B. Commodari  
Chairman, Zoning Plans  
Advisory Committee

PETITION FOR VARIANCES  
ZONING: Petition for Variances  
LOCATION: Southwest side of Clifton Forge Circle, 473.11' NW of the centerline of Stuart Mills Place  
DATE & TIME: Wednesday, October 5, 1983 at 10:00 A.M.  
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ARNOLD JABLON  
Zoning Commissioner  
of Baltimore County

## CERTIFICATE OF PUBLICATION

TOWSON, MD, September 15, 1983

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., on the 15th day of September, 1983, before the 15th day of September, 1983, the first publication appearing on the 15th day of September, 1983.

THE JEFFERSONIAN  
*[Signature]*  
Manager

Cost of Advertisement, \$... 21.00

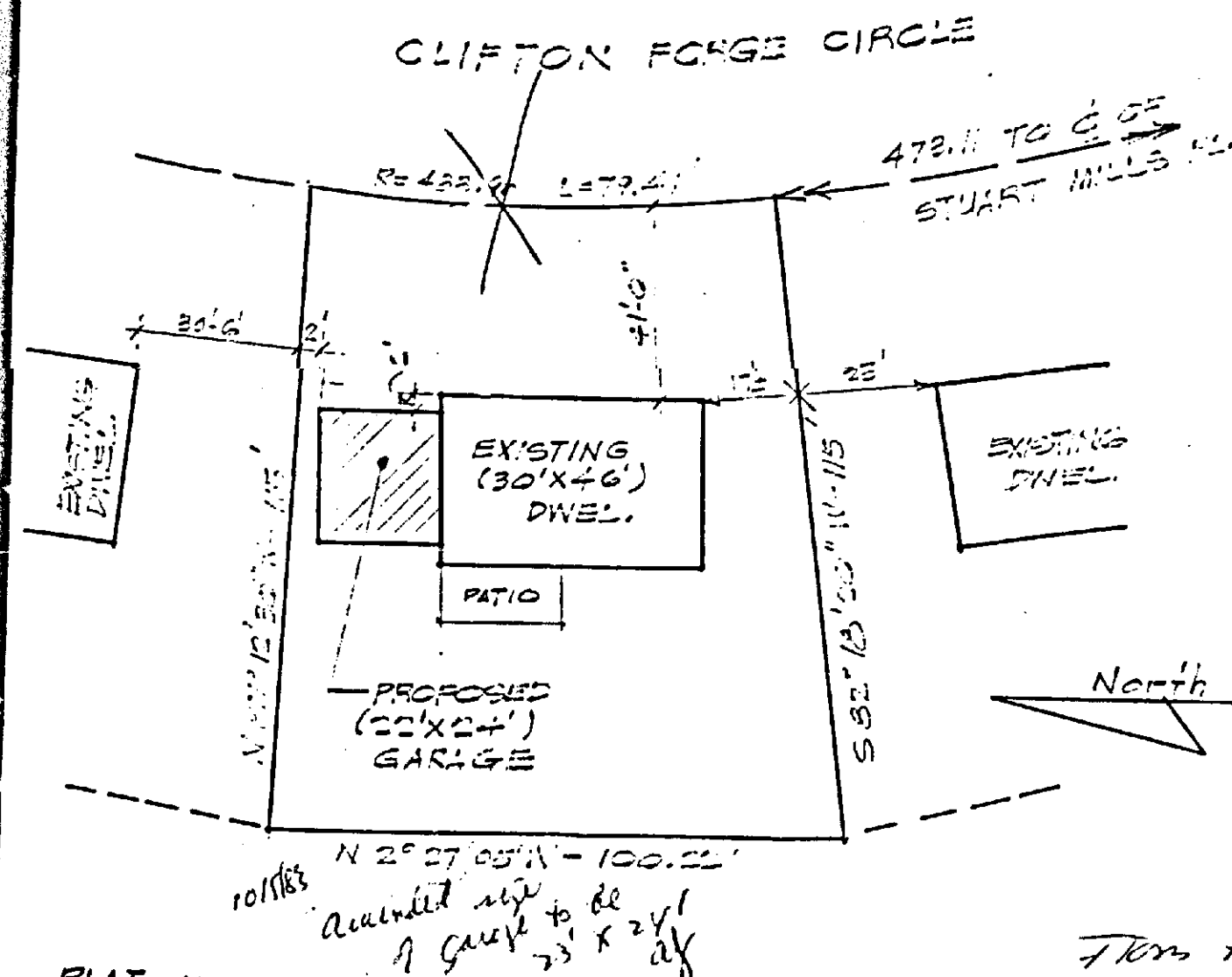
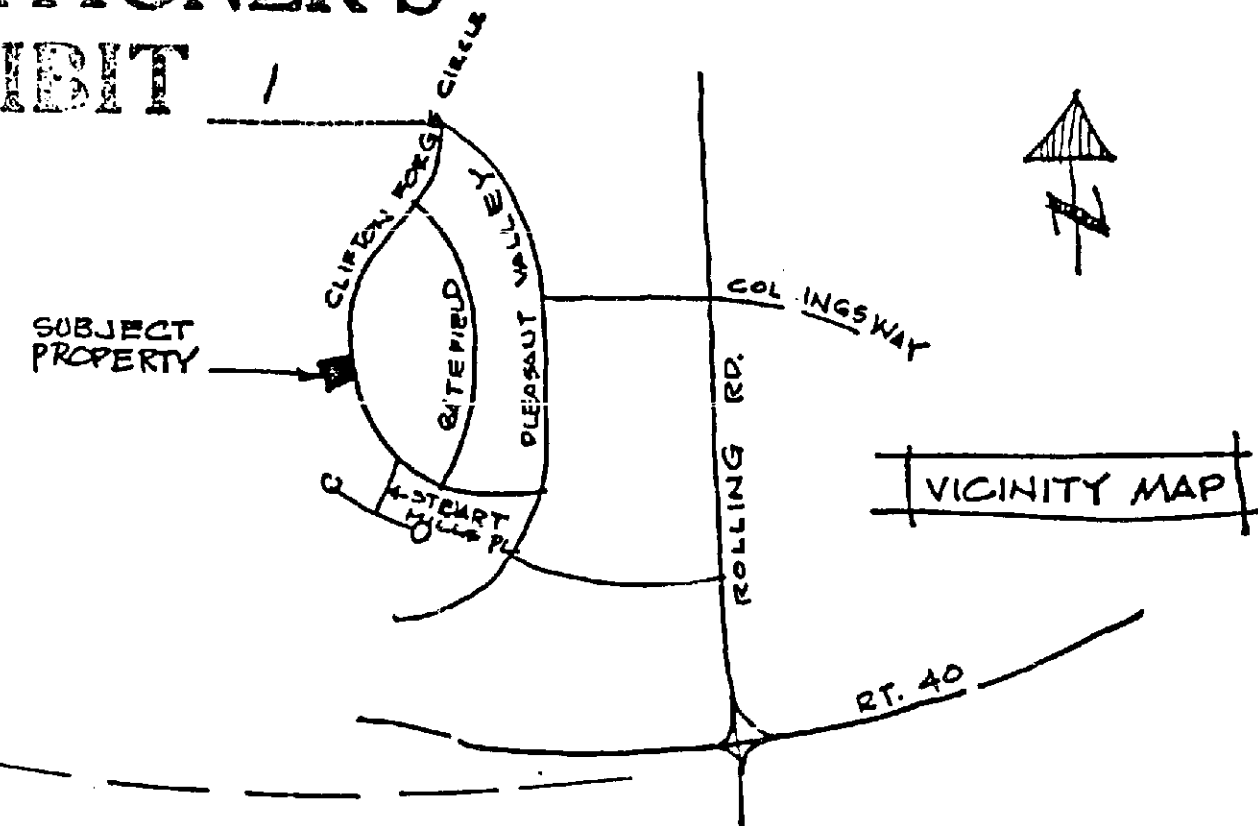


**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

84-06-A

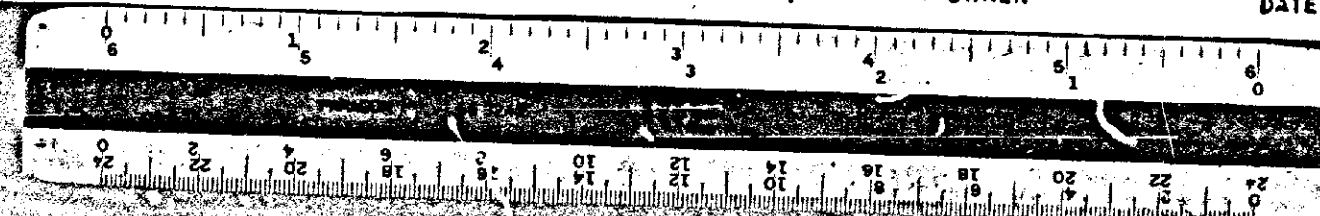
District 1st Date of Posting Sept 16-83  
Posted for: Variance  
Petitioner: George Champid Abraham et ux  
Location of property: SW/S. of Clifton Forge Circle 473.11' NW of the C.P. of Stuart Mills Place  
Location of Signs: SW/S. of Clifton Forge Circle Approx. 500' NW of the C.P. of Stuart Mills Place  
Remarks:  
Posted by A. J. Arata Date of return: Sept 16, 1983  
Number of Signs: 1

**PETITIONER'S EXHIBIT 1**



OWNERS WILL TAKE FULL RESPONSIBILITY  
AS TO THE INFORMATION PROVIDED ON  
SAID PLOT PREPARED BY DALTO. CO.

George Abraham 7-12-83  
OWNER DATE  
L. Abraham 7-12-83  
OWNER DATE



**PROTESTANT'S EXHIBIT 4 E**